



**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0107; Docket No. 2018-0003; Sequence No. 22]

**Submission for OMB Review; Federal Acquisition Regulation  
Part 23 Requirements**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding FAR part 23 requirements.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC

20503. Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal*: This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to <http://www.regulations.gov> and follow the instructions on the site.
- *Mail*: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000-0107, Federal Acquisition Regulation Part 23 Requirements.

*Instructions*: Please submit comments only and cite Information Collection 9000-0107, Federal Acquisition Regulation Part 23 Requirements, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Mahruba Uddowla,  
Procurement Analyst, at telephone 703-605-2868, or email  
*mahruba.uddowla@gsa.gov*.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

This information collection requirement, OMB Control No. 9000-0107, currently titled "Notice of Radioactive Materials," is proposed to be retitled "Federal Acquisition Regulation Part 23 Requirements" due to consolidation with currently approved information collection requirements OMB Control No. 9000-0101, Drug-Free Workplace; 9000-0191, High Global Warming Potential Hydrofluorocarbons; 9000-0194, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation; 9000-0147, Pollution Prevention and Right-to-Know Information; 9000-0134, Environmentally Sound Products; and 9000-0180, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

This information collection requirement pertains to information that a contractor must submit in response to a number of requirements from FAR Part 23, which are as follows:

1. **Notice of Radioactive Materials.** The Atomic Energy Act of 1954, (42 U.S.C. 2011), as amended, establishes

requirements for protecting radioactive materials. The requirements of this Act are implemented in the FAR at clause 52.223-7, Notice of Radioactive Materials. This clause requires contractors to notify the Government prior to delivery of items containing radioactive materials.

2. **Drug-Free Workplace.** As mandated in Public Law 100-690, the Drug-Free Workplace Act of 1988, and as enacted in Public Law 111-350, which recodifies Title 41 - Public Contracts of the United States Code: (1) Government contractor employees are required to notify their employer of any criminal drug statute conviction for a violation occurring in the workplace; and (2) Government contractors, after receiving notice of such conviction, must notify the Government contracting officer. FAR clause 52.223-6, Drug-Free Workplace, implements the Act.

3. **High Global Warming Potential Hydrofluorocarbons.** FAR clauses 52.223-11, Ozone-Depleting Substances, and 52.223-12, Refrigeration Equipment and Air Conditioners, address high global warming potential (GWP) hydrofluorocarbons (HFCs). For equipment and appliances that normally contain 50 or more pounds of HFCs or HFC blends, the clauses include requirements to track by

type, equipment/application, contract, agency, and location, the amount in pounds of HFCs or HFC blends—

- i. Contained in such equipment and appliances delivered to the Government; or
- ii. Added or taken out of such equipment and appliances that will be maintained, repaired, or disposed under the contract.

The contractor is required to report the HFC information annually to a centralized Government web-site.

**4. Public Disclosure of Greenhouse Gas Emissions and Reduction Goals— Representation.** FAR provision 52.223-22 contains an annual representation for vendors to indicate if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets. Public disclosure of greenhouse gas emission management is increasingly becoming standard practice in many industries, because an inventory of this information provides insight into operations, spurs innovation, and helps identify opportunities for efficiency and savings, outcomes which can translate into both environmental and financial benefits. Executive Order (EO) 13693, Planning for Federal Sustainability in the Next Decade, March 25, 2015, serves as the legal underpinning for this

collection of information, as it prescribes the continuation of the Federal policy that agencies shall increase their efficiency and improve their environmental performance, including the reduction of greenhouse gas emissions across Federal operations and the Federal supply chain (e.g. Federal contractors).

**5. Pollution Prevention and Right-to-Know**

**Information.** The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109), require that Federal facilities maintain reports on hazardous materials and toxic chemicals and pollution prevention efforts. In keeping with these mandates, FAR clause 52.223-5, Pollution Prevention and Right-to-Know Information, requires Federal contractors performing at a Federal facility to provide sufficient information to the Government to ensure that the facility is compliant with the PPA and EPCRA. This information pertains to the Toxic Release Inventory and PPA reports; other reports required by the EPCRA; implementation of Environmental Management Systems; and completion of Facility Compliance Audits.

**6. Environmentally Sound Products.** Section 6002 of the Resource Conservation and Recovery Act (RCRA), Pub.

L. 94-580, (42 U.S.C.6962), requires Federal agencies to develop affirmative procurement programs to ensure that items composed of recovered materials will be purchased to the maximum extent practicable. Each agency's affirmative procurement program must provide estimates of the total percentage of recovered materials used in the performance of a contract, certification of minimum recovered material content actually used, where appropriate, and reasonable verification procedures for estimates and certifications. The minimum recovered material content standards are designated by the Environmental Protection Agency (EPA). These standards are grouped into eight categories—

- (i) Construction products;
- (ii) Landscaping products;
- (iii) Non-paper paper office supplies;
- (iv) Paper and paper products;
- (v) Park and recreation products;
- (vi) Transportation products;
- (vii) Vehicular products; and
- (viii) Miscellaneous products.

FAR clause 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items, was created to assist agencies with compliance with section

6002. Clause 52.223-9 requires a contractor, on completion of the contract that is for or specifies the use of EPA-designated items containing recovered materials, to (a) estimate the percentage of the total recovered material content delivered or used in performance of the contract, including, if applicable, the percentage of post-consumer material content and (b) submit an estimate to the contracting agency.

Although section 6002 requires that agencies develop these estimates whenever an acquisition sets forth minimum percentages of recovered materials, when the price of the item exceeds \$10,000, or when the aggregate amount paid for the item or functionally equivalent items in the preceding fiscal year was \$10,000 or more, the clause at 52.223-9 is only used in solicitations and contracts exceeding \$150,000. Acquisitions of commercially available off-the-shelf (COTS) items are excluded from this requirement.

**7. Affirmative Procurement of Biobased Products Under Service and Construction Contracts.** FAR clause 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, requires prime contractors to report annually the product types and dollar values of U.S. Department of Agriculture (USDA) -



designated biobased products purchased. The information reported by prime contractors enables Federal agencies to report annually to the Office of Federal Procurement Policy (OFPP) concerning actions taken to implement and measure progress in carrying out the preference for biobased products required under section 9002 of the Farm Security and Rural Investment Act of 2002, codified at 7 U.S.C. 8102.

## **B. Public Comment**

A 60-day notice published in the *Federal Register* at 83 FR 51462 on October 11, 2018. Two comments were received; however, they did not change the estimate of the burden.

Comment 1: The commenter is concerned with potential changes to regulations concerning HFCs.

Comment 2: The commenter asked the General Services Administration to implement a rule requiring all federal facilities under their management to procure 100% of their electricity needs from carbon-neutral sources by 2035. The commenter stated this request is a public right to petition for the issuance, amendment, or repeal of a rule under the Administrative Procedures Act, codified in 5 U.S.C. 553(e).

Response: These comments are out of scope because they did not express an opinion on whether the stated number of burden hours is accurate for what they believe to be the

actual number of hours an offeror/contractor expend to comply with the FAR part 23 requirements.

## **C. Annual Reporting Burden**

### **1. Notice of Radioactive Materials.**

Respondents: 500.  
Responses Per Respondent: 5.  
Total Annual Responses: 2,500.  
Hours Per Response: 1.  
Total Burden Hours: 2,500.

### **2. Drug-Free Workplace.**

Respondents: 205.  
Responses Per Respondent: 1.  
Total Annual Responses: 205.  
Hours Per Response: 0.5.  
Total Burden Hours: 102.5.

### **3. High Global Warming Potential Hydrofluorocarbons.**

Respondents: 2,337.  
Responses Per Respondent: 1.  
Total Annual Responses: 2,337.  
Hours Per Response: 8.  
Total Burden Hours: 18,696.

### **4. Public Disclosure of Greenhouse Gas Emissions and Reduction Goals— Representation.**

Respondents: 7,740.

Responses Per Respondent: 1.  
Total Annual Responses: 7,740.  
Hours Per Response: 0.25.  
Total Burden Hours: 1,935.

**5. Pollution Prevention and Right-to-Know Information.**

Respondents: 3,148.  
Total Annual Responses: 4,713.  
Hours Per Response: 3.9622.  
Total Burden Hours: 18,674.

**6. Environmentally Sound Products.**

Respondents: 585.  
Responses Per Respondent: 1.  
Total Annual Responses: 585.  
Hours Per Response: 0.5.  
Total Burden Hours: 292.5.

**7. Affirmative Procurement of Biobased Products Under Service and Construction Contracts.**

Respondents: 29,612.  
Responses Per Respondent: 5.  
Total Annual Responses: 148,060.  
Hours Per Response: 5.  
Total Burden Hours: 740,300.

**8. Summary.**

Respondents: 44,127.

Total Annual Responses: 166,140.

Total Burden Hours: 782,520.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 9000-0107, Federal Acquisition Regulation Part 23 Requirements, in all correspondence.

Dated: February 7, 2019.

**Janet Fry,**

*Director,*

*Federal Acquisition Policy Division,*

*Office of Governmentwide Acquisition Policy,*

*Office of Acquisition Policy,*

*Office of Governmentwide Policy.*

**BILLING CODE: 6820-EP**

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